

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

JAMES D. JOHNSON, as next friend to  
Olivia Y., et al.

PLAINTIFFS

vs.

CIVIL ACTION NO.: 3:04-CV-251-TSL-FKB

PHIL BRYANT, as Governor  
of the State of Mississippi, et al.

DEFENDANTS

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION FOR  
AWARD OF CLASS COUNSEL'S FEES AND EXPENSES**

1. Plaintiffs have submitted a Motion for Award of Class Counsel's Fees and Expenses ("Motion") [Dkt. 686] seeking to recover attorneys' fees and expenses from the Defendants in the amount of \$345,698.11 for the monitoring and enforcement of the Modified Settlement Agreement and Reform Plan [Dkt. 571], from December 1, 2014, through November 30, 2015.

2. The Defendants oppose Plaintiffs' Motion on the grounds that the hourly rates sought by Plaintiffs are excessive and do not represent a reasonable hourly billing rate within the relevant market.

3. The hourly rates previously agreed to by the parties continue to be reasonable and customary in the Southern District of Mississippi and the attorneys' fees and expenses awarded Plaintiffs' should be \$240,617.36.

4. In support of their Response in Opposition, Defendants rely upon the legal arguments and authorities set forth in its separately filed Memorandum.

5. In addition, Defendants rely on the following exhibit in support of their Response in Opposition:

EXHIBIT A: Declaration of Dewitt L. ("Rusty") Fortenberry, Jr..

Respectfully submitted, this the 18th day of April, 2016.

s/ Dewitt L. ("Rusty") Fortenberry, Jr.  
Dewitt L. ("Rusty") Fortenberry, Jr. (MSB #5435)  
Kenya Key Rachal (MSB # 99227)  
Ashley C. Tullos (MSB # 101839)  
BAKER, DONELSON, BEARMAN, CALDWELL  
& BERKOWITZ, PC  
4268 I-55 North  
Meadowbrook Office Park  
P.O. Box 14167  
Jackson, Mississippi 39211  
Telephone: (601) 351-2400  
Facsimile: (601) 351-2424

Harold Pizzetta, III, Esq.  
Assistant Attorney General  
General Civil Division  
Carroll Gartin Justice Building  
430 High Street  
Jackson, MS 39201  
Telephone: (601) 359-3816  
Facsimile: (601) 359-2003

***COUNSEL FOR DEFENDANTS***

**CERTIFICATE OF SERVICE**

I, Dewitt L. Fortenberry, Jr., do hereby certify that I have on this day, electronically filed a true and correct copy of the forgoing document with the Clerk of Court using the ECF system which sent notifications of such to counsel as follows:

Marcia Robinson Lowry  
Sara R. Robinson-Glasser  
A BETTER CHILDHOOD, INC.  
1095 Hardscrabble Road  
Chappaqua, New York 10510

W. Wayne Drinkwater, Jr.  
BRADLEY ARANT ROSE & WHITE, LLP  
188 East Capitol Street, Suite 450  
Jackson, MS 39201

Christian D. Carbone  
John Piskora  
LOEB & LOEB, LLP  
345 Park Avenue  
New York, New York 10154

SO CERTIFIED, this the 18th day of April, 2015.

/s/ Dewitt L. ("Rusty") Fortenberry, Jr.